

## Latin-America and Refugees: a panoramic view

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Latin America is a peculiar region in relation to protection through asylum. On the one hand, it has a long-lasting and still operating tradition of political asylum that coexists with

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both on the 1951 Convention on Refugees and its 1967 Protocol and the Cartagena Declaration (a regional 1984 document that states that a person can be a refugee if s/he is fleeing gross and generalized violation of human rights, which has become a normative guideline in refugee protection in Latin America).

On the other hand, it is a region that still “produces” asylum seekers but also receives intra and extra-regional refugees, having similar numbers of UNHCR’s persons of concern (over 7,5 million by the end of 2015) from the region and in the region.

In order to try to paint a panoramic view of refugees and the region, this post presents the current main challenges and developments in refugee issues in Latin America.

In relation to challenges, it is important to highlight two on-going refugee-producing situations in Latin America. Colombia has a long-standing conflict situation that may be on the verge of ending, but that during its over 50 years has produced massive forced displacement, both internally (with over 7 million IDPs) and externally (with over 350,000 refugees). This flow of forced migrants placed a challenge to the region, especially to Colombia’s neighboring countries in terms of registration, refugee status determination procedures and integration.

A second refugee-producing situation in the region is the displacement in the Northern Triangle of Central America. Encompassing Guatemala, Honduras and El Salvador, this region has seen its refugee numbers increase five-times from 2012 to 2015. Forced displacement there is due to violence, specially related to the actions of organized crime gang activities and gender-based violence. Moreover, it adds to the already challenging scenario of mass displacement, a new factor for the region: the displacement on unaccompanied or separated children.

To deal with both these challenges the region needs to focus on a third one: the actual and proper implementation of refugee-related laws to ascertain integral protection.

Meaning the protection of all the rights refugees are entitled too in all phases of their refugeehood, integral protection requires the correct application of International Refugee Law, national legislation dealing with refugee status, and Human Rights standards. Even though most of the countries in the region are part of the international refugee regime and/or have incorporated the regional instruments of refugee protection, it is relevant that these norms are applied in practice with a view of actually protecting refugees, and that an increased dialogue is in play between Refugee Law and Human Rights in the region so as to guarantee maximum and effective protection.

In this sense, it is important that refugee legislation and refugee status determination standards remain available and are properly applied in the region. New forms of protection (such as the MERCOSUR residence agreement) are relevant but they should coexist with Refugee Law protection. In this regards the idea of maximum protection brought along by human rights standards is key and the States of Latin America have to take it into consideration in setting up solutions to refugee crisis – existing, emerging and future ones.

Despite these challenges, the region has also engaged in actions regarding refugee protection that can be seen as positive developments in the sense that they enlarge the humanitarian protection space and, therefore, can lead to better refugee protection. Two such actions need to be highlighted, as they strengthen refugee protection by adding new perspectives and approaches to the current international refugee regime with regional “twists”. They are: resettlement in solidarity initiative and humanitarian visas.

Resettlement in solidarity was proposed by Brazil during the debates of the Mexico Declaration and Plan of Action in commemoration of the 20<sup>th</sup> anniversary of the Cartagena Declaration in 2004 and was incorporated in the final document. The States of Latin America decided not only to accept asylum seekers from Colombia into their territories but also to assist the neighboring countries to the conflict by accepting to resettle Colombian refugees. Brazil, Argentina, Paraguay, Uruguay and Chile established resettlement programs – either from scratch or from building on their emerging practices.

Resettlement in solidarity has been in practice since 2004 and has expanded to receiving extra-regional refugees such as Palestinians (mainly in Chile and Brazil) and more recently Syrians (in Uruguay). It is an effort in both responsibility sharing and regional protection of refugees, and even if it remains an initiative that involves small numbers, it is a positive development in refugee protection in Latin America.

More recently the region has developed a new strategy for enhancing the humanitarian space of protection. This time focused on ascertaining safe ways for forced migrants to access safe territories: the granting of humanitarian visas. This can be seen as a form of complementary protection as it is not only designed for refugees but for people in need of international protection, having already benefitted for instance victims of trafficking or smuggling of people (like in Mexico and Argentina) and also for people fleeing the aftermath of the earthquake of 2010 in Haiti (like in Brazil). Nevertheless, it can also be of assistance to refugees, as has been seen in the case of Syrians who have been granted humanitarian visas by both Brazil and Argentina.

All in all, it can be said that, in a panoramic view of the region, although Latin America still faces challenges in relation to refugee protection, they seem to relate to practical and implementation issues. Therefore, they can be faced with the strengthening of refugee law and human rights standards that are already set in the norms of the countries of the region. It is better and more humane implementation that seem to be key here, much like what has based the region's novel proposals for refugee protection in the resettlement in solidarity and humanitarian visas initiatives.

This post is a contribution to the symposium "Movement of People" which was inspired by the Conference "Movement of People" that was held at the University of Hamburg the 23<sup>rd</sup> and 24<sup>th</sup> September of 2016.

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